

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED
MTN/NTM/W/20/Add.12
21 June 1976
Special Distribution

Multilateral Trade Negotiations

Original: English

Group "Non-Tariff Measures"
Sub-Group "Customs Matters"

CUSTOMS VALUATION

Addendum

1. At its meeting in May 1975, the Sub-Group "Customs Matters" agreed "that participants should transmit to the GATT secretariat in writing by 15 September 1975 specific suggestions, accompanied by notes explaining the objectives of these suggestions, for the elements that they wished to have included in any new set of international rules on customs valuation to be adopted in the context of the Multilateral Trade Negotiations" (MTN/NTM/4, paragraph 6 and GATT/AIR/1189).
2. This agreement was confirmed at the October 1975 meeting of the Sub-Group. The Sub-Group also agreed that the written submissions contained in MTN/NTM/W/20 and addenda would, inter alia, constitute the basis for the discussion at its next meeting.
3. At its meeting in March 1976 the Sub-Group invited delegations to submit any additional comments they wished to have included in a working paper to be prepared by the secretariat, containing a checklist of issues raised and of possible elements that may be included in any new set of international rules or principles on customs valuation to be adopted in the context of the Multilateral Trade Negotiations (MTN/NTM/13 paragraph 8).
4. A communication from the Nordic countries has been received which supplements their previous communication reproduced in MTN/NTM/W/20 page 2.

Neutrality

The system of valuation should be neutral in its effect and in no case be used as a disguised means of providing additional protection by artificially increasing the value to which the rate of duty is to be applied.

Non-discriminatory application

The system of valuation should be of general application without distinction as between sources of supply.

Relation with anti-dumping

The system of valuation should not be used to combat dumping.

Under-valuation

The system of valuation should protect trade against unfair competition arising from under-valuation.

Consistency with commercial practices

Documents available in country of importation

The determination of customs value should be based to the greatest possible degree on commercial documents which are available in the country of importation and relate to the imported goods.

Simplicity

Fairness and equity

Dutiable value should be based on equitable and simple principles which do not cut across commercial practice.

Quick clearance of goods

The system of valuation should reduce formalities to a minimum. The procedure of customs valuation should be as speedy as possible and not prevent the quick clearance of goods.

Precision and predictability

To minimize differences in interpretation and to enable traders to estimate, in advance, the value of their goods for customs purposes, the legal and administrative provisions concerning customs valuation should be sufficiently clear and precise.

Business secret

The system of valuation and its practical application should take into account the need to safeguard business secrets.

Publication of laws, regulations and administrative decisions

The legal and administrative provisions concerning customs valuation as well as principles emerging from appeal cases shall be published.

Definition of value for customs purposes: Price

The value for customs purposes is the price at which the goods are sold or would be sold with a view to importation into the country of importation in the ordinary course of trade under fully competitive conditions between a buyer and a seller independent of each other, where that price is the sole consideration.

Time

The moment for the valuation of goods should be the time, when the goods are cleared for home use. However, this would not always be in conformity with commercial practice and realities. Contracts are generally made some time before that moment and account should therefore be taken of the time normally required for executing the contract.

Place

As regards the apportionment of delivery costs the place of introduction into the country of importation should be the place to be taken into consideration for this purpose.

Commercial level

The system of valuation should accept prices applicable at different trade levels and thus respect commercial practice.

Quantities

Valuation should be related to the actual quantity of goods being imported with all due allowance being made for a certain flexibility in treatment where it is necessary to bring in a purchased quantity in split consignments.

Adjustment of value-nearest ascertainable equivalent

When the value for customs purposes cannot be determined on the basis of the price paid or payable by the importer or on the price made by the seller to other buyers in the country of importation for identical or, failing this, similar goods, the dutiable value should be ascertained from information available

in the country of importation concerning the imported goods, such as the price made on sales of the imported goods, rentals if the goods are supplied on hire or lease, value shown in the balance sheet as an asset.

Non-arm's length transaction

When an imported merchandise is not sold under fully competitive conditions, the fact itself should not entitle to an automatic increase of the invoice price for the purpose of customs valuation. In the first instance, the customs administration should examine if and to what extent the invoice price is influenced by the existence of non-arm's length conditions (transactions between a buyer and a seller not being independent of each other); only in cases where such an influence is determined, the invoice price can be adjusted to correspond to the value for customs purposes.

Price of goods in the domestic market of the importing country

Price of goods in the domestic market of exporting country

Price to other countries

Arbitrary and fictitious values

The value for customs purposes shall not be based on the price of goods in the domestic market of the country of exportation, nor on the price of goods in the domestic market of the country of importation, nor on the price made to countries other than the country of importation, nor on the concept of minimum value, nor on arbitrary or fictitious values.

Declaration of importer

The importer shall be made responsible for the accuracy of his customs valuation declaration.

Explanation by customs authorities upon request, ready availability of needed information to importers and to customs officials

On the request of an importer or an exporter the customs administration shall explain in advance the general principles and practices for the calculation of value for customs purposes so that traders can estimate with a reasonable degree of certainty the value of their goods for customs purposes.

The customs administration shall explain to the importer or exporter, on his request, how the customs value has been calculated for his goods, particularly in cases where the invoice price is not acceptable, provided the confidentiality of business secrets is safeguarded.

Appeal and judicial review procedures

All countries should have an appeal procedure, which includes a body independent of the customs administration.